IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 23470 of 2004

Between:

C. Eswaraiah S/o C. Akkulappa, R/o Katnekaluva Rapthadu Mandal, Ananthapur District

..... PETITIONER

AND

1 The Collector and District Magistrate O/o District collector, Anantapur Anantapur (District)
2 The Chief Secretary, Government of Andhra Pradesh Secrtariat, Hyderabad
3 The Secretary, Department of General Administration Government of A.P.,

Secretariat, Hyderabad
4 The Superintendent, Charlapalle Central Jail Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Habeas Corpus under Act 226 of Constitution of India directing the respondents to produce the detenu Sri. Bandi Venkat Ramudu, Umanagar, Anantapur detained in C. No. 5001-24/MC/2004 dated 18-9-2004 now lodge in Charlapalle Central Prison, Hyderabad before this Hon'ble Court and he may be released forthwith after declaring the detention as illegal and invalid and unconstitutional and pass such other or further orders.

Counsel for the Petitioner : MR.K.MADHAVA REDDY

Counsel for the Respondents : THE ADVOCATE GENERAL

The Court made the following :

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ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Nobody appears for the petitioner. Counter has been filed. We have gone through the record and heard the learned Government Pleader appearing for Advocate-General.

The detenu has been detained in terms of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act') by an order of the District Magistrate and Collector, Ananthapur, dated 18th September, 2004.

Various grounds have been taken to challenge the order of detention and grounds of detention. Grounds No.2, 4 and 5 appear to be irrelevant as they relate to the crimes registered under Section 107 Cr.P.C. 'Goonda' is defined in Section 2(g) of the Act as under;

> *"**2 (g)** : "goonda" means a person, who either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XVI or Chapter XVII or Chapter XXII of the Indian Penal Code."*

Since three of the grounds pertain to the offences, which do not fall under relevant chapters of Cr.P.C. therefore, the detention was bad, as has been held in a number of judgments by this Court.

On this ground alone, we allow this Writ Petition and quash the order of detention. The detenu shall be released forthwith, if not needed in any other case. No order as to costs.

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BILAL NAZKI, J

30th December, 2004.

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Dr. G. YETHIRAJULU, J

ajr

To

1 The Collector and District Magistrate O/o The District collector, Anantapur, Anantapur District.
2 The Chief Secretary, Government of Andhra Pradesh, Secrtariat, Hyderabad
3 The Secretary, Department of General Administration, Government of A.P.,

Secretariat, Hyderabad
4 The Superintendent, Central Jail, Charlapalle, Hyderabad.

5 Two C.Cs. to the Advocate General, High Court of A.P., Hyderabad

(O.U.T).

6 Two C.D. copies.